

IN THE UNITED STATES DISTRICT COURT  
FOR THE EASTERN DISTRICT OF NORTH CAROLINA  
WESTERN DIVISION  
FILE NO. 5:14-cv-137

WILSON & RATLEDGE, PLLC,

Plaintiffs

vs.

MICHAEL J. AVENATTI, MICHAEL Q.  
EAGAN, AND EAGAN AVENATTI, LLP,  
F/K/A EAGAN, O'MALLEY & CONTI, LLP,

Defendants

**DEFENDANTS'  
NOTICE OF REMOVAL**

**From Wake County  
14 CVS 2268**

TO: The United States District Court  
For the Eastern District of North Carolina

Defendants Michael J. Avenatti, Michael Q. Eagan, and Eagan Avenatti, LLP (hereinafter "Defendants"), by and through their undersigned counsel, do hereby exercise their rights under the provisions of 28 U.S.C. §1332, 28 U.S.C. §1441(a) and (b), and 28 U.S.C. §1446(b), to remove this action from the General Court of Justice, Superior Court Division, Wake County, North Carolina, in which this cause is now pending as Case No. 14 CVS 2268. In support thereof, Defendants show the Court as follows:

1. On February 21, 2014, a civil action was commenced in the Superior Court of Wake County, North Carolina styled Wilson & Ratledge, PLLC v. Michael J. Avenatti, Michael Q. Eagan, and Eagan Avenatti, LLP, No. 14 CVS 2268 ("State Court Action"), by the filing of a motion and the entry of an order granting Plaintiff 20 days within which to file its complaint, all pursuant to N.C. Gen. Stat. 1A-1, Rule 3(a). A copy of Plaintiff's Motion for An Extension of

Time to File Complaint Within 20 Days of Issuance of Summons and Order were served upon Defendants on February 28, 2014.

2. This notice is being filed within thirty (30) days after receipt by Defendants of the Plaintiff's Motion for An Extension of Time to File Complaint Within 20 Days of Issuance of Summons, and Order granting the same, in accordance with 28 U.S.C. §1446(b).

3. The action brought by Wilson & Ratledge, PLLC is wholly of a civil nature over which the United States District Court for the Eastern District of North Carolina has original jurisdiction pursuant to 28 U.S.C. §1332 and one that may be removed by Defendants pursuant to 28 U.S.C. §1441(a) and (b) and 28 U.S.C. §1446(b), as the State Court Action is based upon allegations of breach by Defendants of a contract for the division of attorney's fees.

4. Plaintiff is seeking damages in excess of \$75,000.00 and, therefore, the jurisdictional amount set forth in 28 U.S.C. §1332(a) has been satisfied.

5. The District Courts of the United States have been given original jurisdiction pursuant to 28 U.S.C. §1332(a) in that complete diversity of citizenship existed at the time of the filing of this action and still exists as between the Plaintiff and Defendants, and the amount in controversy exceeds the sum of \$75,000.00, exclusive of interest and costs.

6. Upon information and belief, Plaintiff is a North Carolina limited liability company with its principal place of business in Raleigh, North Carolina.

7. Upon information and belief, Defendants are attorneys and a limited liability partnership whose members are all citizens of a state other than North Carolina with its principal place of business in Newport Beach, California.

8. In accordance with the requirements of 28 U.S.C. §1446(a), Defendants are attaching hereto as **Exhibit A** copies of the process and pleadings filed in the Wake County, North Carolina action.

9. Service of this Notice of Removal is being made on all parties as required by law.

10. Promptly after filing this Notice of Removal, Defendants will serve upon the Plaintiff and file with the Clerk of Superior Court of Wake County, as required by law, a “Notice of Filing of Notice of Removal” (without exhibits) in the form attached as **Exhibit B**.

WHEREFORE, Defendants pray that this action be removed to this Court for further proceedings, as though this action had originally been instituted in this Court. Defendants reserve the right to seek a stay of this action in favor of arbitration and an order from this Court compelling Plaintiff to submit to arbitration.

This the 7<sup>th</sup> day of March, 2014.

YOUNG MOORE AND HENDERSON P.A.

BY: /s/ Walter E. Brock, Jr.  
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*Attorneys for Defendants*

**CERTIFICATE OF SERVICE**

I hereby certify that on the 7<sup>th</sup> day of March, 2014, I electronically filed the foregoing with the Clerk of Court using the CM/ECF system and served the foregoing document on the attorney shown below by depositing a copy of same in the United States mail, postage prepaid, addressed to said attorney:

Michael A. Ostrander  
Wilson & Ratledge, PLLC  
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*Attorneys for Plaintiff*

YOUNG MOORE AND HENDERSON P.A.

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